

§ 301.6532-1

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action involved was taken is not necessarily determinative of this question. For example, if a later judicial decision authoritatively alters such interpretation so that such action is contrary to the applicable provisions of the law and regulations as later interpreted, the error comes within the scope of section 6521.

PERIODS OF LIMITATION IN JUDICIAL PROCEEDINGS

§ 301.6532-1 Periods of limitation on suits by taxpayers.

(a) No suit or proceeding under section 7422(a) for the recovery of any internal revenue tax, penalty, or other sum shall be begun until whichever of the following first occurs:

(1) The expiration of 6 months from the date of the filing of the claim for credit or refund, or

(2) A decision is rendered on such claim prior to the expiration of 6 months after the filing thereof.

Except as provided in paragraph (b) of this section, no suit or proceeding for the recovery of any internal revenue tax, penalty, or other sum may be brought after the expiration of 2 years from the date of mailing by registered mail prior to September 3, 1958, or by either registered or certified mail on or after September 3, 1958, by a district director, a director of an internal revenue service center, or an assistant regional commissioner to a taxpayer of a notice of disallowance of the part of the claim to which the suit or proceeding relates.

(b) The 2-year period described in paragraph (a) of this section may be extended if an agreement to extend the running of the period of limitations is executed. The agreement must be signed by the taxpayer or by an attorney, agent, trustee, or other fiduciary on behalf of the taxpayer. If the agreement is signed by a person other than the taxpayer, it shall be accompanied by an authenticated copy of the power of attorney or other legal evidence of the authority of such person to act on behalf of the taxpayer. If the taxpayer is a corporation, the agreement should be signed with the corporate name followed by the signature of a duly authorized officer of the corporation. The

agreement will not be effective until signed by a district director, a director of an internal revenue service center, or an assistant regional commissioner.

(c) The taxpayer may sign a waiver of the requirement that he be mailed a notice of disallowance. Such waiver is irrevocable and will commence the running of the 2-year period described in paragraph (a) of this section on the date the waiver is filed. The waiver shall set forth:

(1) The type of tax and the taxable period covered by the taxpayer's claim for refund;

(2) The amount of the claim;

(3) The amount of the claim disallowed;

(4) A statement that the taxpayer agrees the filing of the waiver will commence the running of the 2-year period provided for in section 6532(a)(1) as if a notice of disallowance had been sent the taxpayer by either registered or certified mail.

The filing of such a waiver prior to the expiration of 6 months from the date the claim was filed does not permit the filing of a suit for refund prior to the time specified in section 6532(a)(1) and paragraph (a) of this section.

(d) Any consideration, reconsideration, or other action with respect to a claim after the mailing by registered mail prior to September 3, 1958, or by either registered or certified mail on or after September 3, 1958, of a notice of disallowance or after the execution of a waiver referred to in paragraph (c) of this section, shall not extend the period for bringing suit or other proceeding under section 7422(a).

§ 301.6532-2 Periods of limitation on suits by the United States.

The United States may not recover any erroneous refund by civil action under section 7405 unless such action is begun within 2 years after the making of such refund. However, if any part of the refund was induced by fraud or misrepresentation of a material fact, the action to recover the erroneous refund may be brought at any time within 5 years from the date the refund was made.